

JC10 Rec'd PCT/PTO 1 9 NOV 2001

2711

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:

Shklarsky

Serial No.: 09/202,617

Filed: 18 Dec 1998

For: Adaptive Capacity and Quality  
Improvements in Cellular Radio...

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

Group Art Unit:

Attorney  
Docket: 2064/11 (formerly  
26/259)

**Attention: Legal Office**  
Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**RECEIVED**

NOV 21 2001

OFFICE OF PETITIONS

RENEWED PETITION UNDER CFR 1.181

Sir:

This is in response to the United States Patent and Trademark Office Action mailed September 21, 2001, in which the Petition filed July 2, 2001 was dismissed on the grounds that certain elements of the required Petition were not provided therein.

By this Renewed Petition, the previously submitted Declaration of Mr. Friedman is resubmitted to include a copy of his docket records, where the non-received Office action would have been entered. The renewed Declaration of Mr. Friedman corrects an error in his previous Declaration, and includes docket records regarding the mail received from USPTO dated between Feb. 22, 1999 and April 23, 1999 (not Feb. 2 – Feb. 9, as previously stated).

Mr. Friedman further declares that his review of these records, received between Feb. 22, 1999 and April 23, 1999 reveals that there was no record of a response being due for the present application.

It is therefore evident that no such Notice of Missing Requirements or any other action was received by him with respect to this application.

Accordingly, pursuant to the holding of *Delgar, Inc v. Schuyler*, 172 USPQ 513, Applicants have submitted sufficient facts to support the contention that the Notice of Missing Requirements was never received by the Applicants representatives.

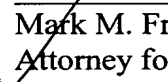
In view of the above, the Notice of Abandonment should be withdrawn and a new Notice of Missing Requirements be mailed in the subject patent application. It is believed that this Petition does not require a fee, but if one is required, authorization to charge Deposit Account 06-2140 is hereby granted.

**RECEIVED**

NOV 21 2001

**OFFICE OF PETITIONS**

Respectfully submitted,

  
\_\_\_\_\_  
Mark M. Friedman  
Attorney for Applicant  
✓ Registration No. 33,883

Date: November 15, 2001



SEP 21 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov



Mark M. Friedman  
c/o Anthony Castorina  
2001 Jefferson Davis Highway  
Suite 207  
Arlington, VA 22202

In re Application of  
SHKLARSKY, et al.

Application No.: 09/202,617

PCT No.: PCT/IL97/00188

Int. Filing Date: 10 June 1997

Priority Date: 18 June 1996

Attorney Docket No.: 26/259

For: ADAPTIVE CAPACITY AND QUALITY  
IMPROVEMENTS IN CELLULAR RADIO  
SERVICES BY THE REMOVAL OF STRONG  
INTERFERENCE SOURCES

DECISION ON RENEWED

PETITION UNDER

37 CFR 1.181

This is a decision on applicants' "Renewed Petition Under 37 CFR 1.181." filed on 02 July 2001 in the United States Patent and Trademark Office (USPTO).

### BACKGROUND

On 02 May 2001, applicant was mailed a decision dismissing applicant's renewed petition and affording two months in which to file a response.

On 02 July 2001, applicant filed the present renewed petition.

### DISCUSSION

The Official Gazette, at 1156 OG 53, provides that a petition requesting relief based on the grounds that an Office action was not received must be accompanied by a statement that (1) the Office action was not received, (2) attests that a search of the file jacket indicates the Office action was not received, (3) attests that a search of counsel's docket records indicates the Office action was not received and (4) the Petition must also be accompanied by copies of the docket records where the non-received Office action would have been entered. (See also, Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

Applicants previously satisfied items (1), (2) and (3) above.

Regarding item (4), applicant has submitted a docket record. However, it is unclear whether the submitted docket record applies to the present situation. The Notification of Missing Requirements in question was mailed to applicant on 23 February 1999 affording one month for a response. Yet, in the present petition applicant states that, "The new docket entries between Feb. 2, 1999 and Feb. 9, 1999, entered in the computerized database, show that no such Notice of Missing Requirements or any other action was received by him with respect to this application." Thus, it is unclear what dates the enclosed docket record is detailing. Furthermore, applicant has not provided an explanation as to what the various columns mean. Absent an explanation from applicant, it is not possible to grant the renewed petition.

Thus, applicants have not provided the proper showing necessary to withdraw the holding of abandonment and the petition may not be properly granted.

### CONCLUSION

The Petition to Withdraw Holding of Abandonment under 37 CFR 1.181 has been considered, however, for the reasons indicated above, the petition stands **DISMISSED** without prejudice and the application remains **ABANDONED**.

If reconsideration of the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.181." No additional fee is required.

Any renewed petition filed must include a proper reply. A proper reply must include a copy of the docket record for all responses due on 23 March 1999.

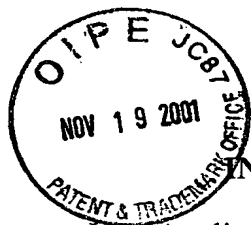
Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



Leonard Smith  
Legal Examiner  
PCT Legal Office



Derek A. Putonen  
Petitions Attorney  
PCT Legal Office  
Tel: (703) 305-0130  
Fax: (703) 308-6459



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:

Shklarsky

Serial No.: 09/202,617

Filed: 18 Dec 1998

For: Adaptive Capacity and Quality  
Improvements in Cellular Radio...

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

Group Art Unit:

Attorney  
Docket: 2064/11 (formerly  
26/259)

Attention: Legal Office  
Commissioner of Patents and Trademarks  
Washington, D.C. 20231

RECEIVED

NOV 21 2001

OFFICE OF PETITIONS

SUPPLEMENTARY DECLARATION IN SUPPORT OF PETITION

I, Mark Friedman, of 7 Haomanim Street, Tel Aviv, Israel, declare as follows:

1. As I previously declared, all the mail received from the USPTO, via Mr. Castorina, is recorded and entered in my computerized database. By this renewed Declaration I correct an error in my previous Declaration, and enclose with this Declaration true copies of the docket records recording all mail received from USPTO dated between Feb. 22, 1999 and April 23, 1999 (not Feb. 2 – Feb. 9, as previously stated).

2. I personally reviewed the docket records of all actions received during the specified dates, in which the action would have been received. The records show all actions received, detailing the file number, application number date received and target date for responding to each item entered.

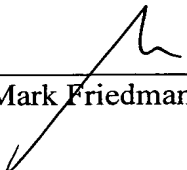
3. I declare that I have reviewed the docket records. No record of a Notice of Missing Requirements or any other USPTO action appears with respect to this application.

4. This indicates that I never received a Notice of Missing Requirements or any other action on the above entitled application.

5. This, in addition to my previous declaration, indicates that I never received a Notice of Missing Requirements on the above identified application.

I hereby further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and such that willful false statements may jeopardize the validity of the application of any patent issuing thereon.

Signed this 15<sup>th</sup> date of November 2001

  
\_\_\_\_\_  
Mark Friedman

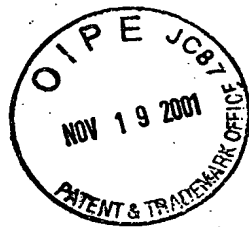
RECEIVED  
NOV 21 2001  
OFFICE OF PETITIONS

Feb

99

22-26

MAIL RECEIVED DURING WEEK OF

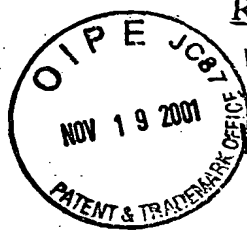


<u>Reference No.</u>	<u>Serial No.</u>	<u>Date Received</u>	<u>Date Due</u>
1062/1	08/934129	Feb 22 99	May 18 99
995/15	09/087796	Feb 22 99	May 18 99
995/3	08/896051	Feb 22 99	May 19 99
899/8	09/148989	Feb 23 99	Aug 21 99
755/4	09/089800	Feb 25 99	May 23 99
910/6	09/260038	Feb 25 99	May 23 99
1081/1	08/982777	Feb 26 99	May 26 99
968/1	08/826786	Feb 26 99	May 25 99
887/2	08/904249	Feb 26 99	May 25 99
57/79	09/069421	Feb 26 99	May 25 99
1197/1	08/997703	Feb 26 99	May 25 99
1140/1	08/948362	Feb 26 99	May 24 99
910/5	09/071739	Feb 26 99	May 26 99
910/4	09/046475	Feb 26 99	May 26 99
1179/1	09/104889	Feb 26 99	Aug 27 99
857/21	08/124638	Feb 26 99	Aug 24 99
205/70	09/091756	Feb 26 99	Aug 26 99
100/62	09/109727	Feb 26 99	Aug 26 99

March 99

1-5

MAIL RECEIVED DURING WEEK OF



Reference No.

Serial No.

Date Received

Date Due

1349/6

60/138024

Mar 299

Aug 30 99

144/1

08/988698

Mar 299

May 12 99

16/18

09/232675

Mar 3 99

Jun 1 99

968/4

08/901834

Mar 3 99

Jun 1 99

81/27

08/947502

Mar 4 99

Jun 2 99

567/14

08/718829

Mar 4 99

Jun 2 99

748/40

08/997398

Mar 4 99

Jun 2 99

1183/5

09/142998

Mar 5 99

Jun 3 99

1129/18

09/092270

Mar 5 99

Jun 3 99



march 8-12 99

MAIL RECEIVED DURING WEEK OF

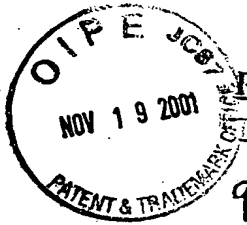


<u>Reference No.</u>	<u>Serial No.</u>	<u>Date Received</u>	<u>Date Due</u>
1085/3	09/018964	mar. 899	Jun 499
1257/1	09/045889	mar. 899	Jun 499
2/1	08/004536	mar 899	Jun 599
755/5	09/089778	mar 899	Jun 499
1532/1	29/097158	mar 899	Jun 499
986/2	09/049062	mar 899	Jun 599
927/1	08/839047	mar 1099	Jun 899
1068/2	09/005032	mar 1199	Jun 999
1471/2	08/978005	mar 1199	Jun 999
27/97	08/942052	mar 1199	Jun 999
977/5	09/015276	mar 1199	Jun 999

March 99

15 - 19

MAIL RECEIVED DURING WEEK OF



<u>Reference No.</u>	<u>Serial No.</u>	<u>Date Received</u>	<u>Date Due</u>
777/8	08/974983	Mar 15 99	Jun 12 99
906/14	08/808935	Mar 15 99	Jun 12 99
100/56	09/064741	Mar 15 99	Jun 12 99
1044/2	08/902939	Mar 15 99	Jun 12 99
1326/5	75/575017	Mar 15 99	Sept. 11 99
1473/1	75/575018	Mar 15 99	Sept. 11 99
724/2	08/873394	Mar 15 99	Jun 12 99
325/31	09/134607	Mar 15 99	Jun 11 99
620/13	09/126285	Mar 17 99	Jun 15 99
1198/13	09/043058	Mar 18 99	Jun 16 99

RECEIVED

NOV 21 2001

OFFICE OF PETITIONS

March 99

22-26

MAIL RECEIVED DURING WEEK OF



<u>Reference No.</u>	<u>Serial No.</u>	<u>Date Received</u>	<u>Date Due</u>
1068/1	08/982426	Mar 22 99	Jun 18 99
899/5	08/947862	Mar 22 99	Jun 18 99
1212/1	09/021299	Mar 22 99	Jun 19 99
1194/2	09/024195	Mar 22 99	Jun 18 99
1194/3	09/130367	Mar 22 99	Jun 18 99
1041/15	75/421872	Mar 22 99	Sept. 19 99
899/5	08/947862	Mar 25 99	Jun 23 99
1117/4	75/409689	Mar 26 99	Sept. 26 99
1089/1	09/000553	Mar 26 99	Jun 24 99

march 29-31 99

+

MAIL RECEIVED DURING WEEK OF

April 1 + 2 99



Reference No.

Serial No.

Date Received

Date Due

100/13

08/276572

mar 29 99

Jun 25 99

1008/1

08/89365

mar 29 99

Jun 25 99

1041/23

29/093366

mar 29 99

Jun 27 99

844/14

09/362048

mar 29 99

Sept 25 99

205/56

09/012412

mar 29 99

Jun 26 99

1232/1

09/013975

mar 29 99

Jun 26 99

26/204

08/790136

mar 29 99

Jun 25 99

753/4

08/693657

mar 29 99

Jun 25 99

1041/24

29/083367

mar 30 99

Jun 28 99

1407/1

29/091865

mar 30 99

Jun 28 99

1201/1

09/064130

mar 31 99

Jun 29 99

1194/4

09/161659

mar 31 99

Jun 29 99

1188/1

09/013980

mar 31 99

Jun 29 99

703/1

08/583363

mar 31 99

Jun 29 99

513/10

09/130373

apr 1 99

Jun 30 99

643/3

08/990512

apr 1 99

Jun 30 99

1267/1

09/034567

apr 2 99

Jun 30 99

1054/1

08/901427

apr 2 99

Jun 30 99

564/3

09/188520

apr 2 99

Jun 30 99

MAIL RECEIVED DURING WEEK OF

5-9

Reference No.

Serial No.

Date Received

Date Due

844/5

08/912401

Apr 5 99

Jul 2 99

699/6

09/101994

Apr 5 99

Jul 1 99

1055/1

08/934205

Apr 5 99

Jul 1 99

55/22

09/152103

Apr 5 99

Jul 1 99

681/10

08/967023

Apr 7 99

Jul 5 99

927/1

08/839047

Apr 9 99

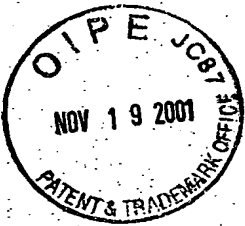
Jul 7 99

839/1

09/030823

Apr 9 99

Jul 5 99



MAIL RECEIVED DURING WEEK OF

April 12 - 16

Reference No.

Serial No.

Date Received

Date Due

1573/1

09/273464

Apr 12 99

Jun 8 99

1001/2

08/917608

Apr 12 99

Jul 10 99

797/2

08/739518

Apr 14 99

Jul 12 99

887/3

09/002925

Apr 14 99

Jul 12 99

1105/1

08/936683

Apr 15 99

Jul 13 99

1501/1

09/200715

Apr 15 99

Jul 13 99

27/86

08/906390

Apr 15 99

Jul 13 99

314/5

09/041755

Apr 15 99

Jul 13 99

205/68

09/122704

Apr 16 99

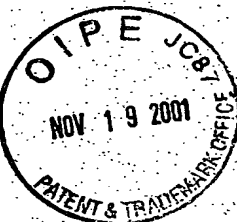
Jul 14 99

1017/5

08/866266

Apr 16 99

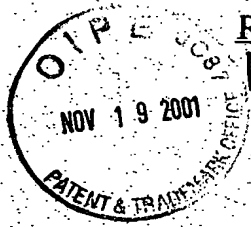
Jul 14 99



MAIL RECEIVED DURING WEEK OF

April 99

19-23



Reference No.

Serial No.

Date Received

Date Due

1022/1  
744/2  
1190/1  
1336/1  
910/16  
1117/1  
1198/13  
927/5  
959/13  
930/11  
1154/2

09/030824  
08/943367  
09/064518  
09/096475  
09/260638  
08/988699  
09/043058  
09/052166  
09/229894  
09/100108  
08/952473

Apr 1999  
Apr 1999  
Apr 1999  
Apr 1999  
Apr 1999  
Apr 2299  
Apr 2399  
Apr 2399  
Apr 2399  
Apr 2399  
Apr 2399

Jul 1599  
Jul 1599  
Jul 1699  
Jul 1699  
Jul 1799  
Jul 2099  
Jul 2199  
Jul 2199  
Jul 2199  
Jul 2199  
Jul 2199